



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2012-0032]

Commercial Driver's License Standards: Application for Exemption; Daimler Trucks North America

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition; granting of application for exemption.

SUMMARY: FMCSA announces its decision to grant an exemption from the commercial driver's license (CDL) requirements to Daimler Trucks North America (Daimler) for one of its commercial motor vehicle (CMV) drivers, Ms. Gesa Reimelt, a product engineer in powertrain solutions. She holds a valid German commercial license and wants to test drive Daimler vehicles on U.S. roads to better understand product requirements in "real world" environments and verify results. Under this exemption, Ms. Reimelt is exempt from the the Agency's drug and alcohol regulations in 49 CFR part 382, which apply only to CDL holders. FMCSA reviewed Ms. Reimelt's commercial license records provided by Daimler, and believes the requirements for a German commercial license, the work restrictions imposed on Daimler drivers because of nonimmigrant visa requirements, and the terms and conditions set forth below, including a Daimler-administered drug and alcohol testing program, will ensure that her operation under this exemption will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption.

DATES: The exemption is effective [Insert date of publication in the FEDERAL REGISTER] and expires [Insert date 5 years after date of publication in the FEDERAL REGISTER].

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; 202-366-2722. MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, go to www.regulations.gov, insert the docket number “FMCSA-2012-0032” in the keyword box, and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, click “Browse Comments.”

To view documents mentioned in this notice as being available in the docket, go to www.regulations.gov, insert the docket number “FMCSA-2012-0032” in the keyword box, click “Search,” and chose the document to review.

If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from certain Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the *Federal Register* (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency's decision must be published in the *Federal Register* (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Current Regulatory Requirements

Current Regulation(s) Requirements

Under 49 CFR 383.23, no person shall operate a CMV without having taken and passed knowledge and driving skills tests for a commercial learner's permit or CDL that meet the Federal standards contained in subparts F, G, and H of Part 383 for the CMV that person operates or expects to operate. The Clearinghouse maintains records of all drug and alcohol program violations in a central repository and requires that employers query the system to determine whether current and prospective employees have incurred a drug or alcohol violation that would prohibit them from performing safety-sensitive functions covered by the FMCSA and U.S. Department of Transportation (DOT) drug and alcohol testing regulations.

Applicant's Request

Daimler has requested an exemption from 49 CFR 383.23 because Ms. Reimelt is unable to obtain a CDL due to her lack of residency in the United States. Daimler further requested an exemption from the Clearinghouse requirements of 49 CFR part 382, subpart G, for Ms. Reimelt because a valid State-issued CDL number is required for a driver to register and for a motor carrier to run full/limited queries and/or report violations to the Clearinghouse.

Gesa Reimelt has a valid German commercial license. The exemption would allow her to operate a CMV in interstate commerce to support Daimler field tests to meet future vehicle safety and environmental requirements, and to promote technical advancements in vehicle safety systems and emissions reductions. Daimler stated that the driver would be in this country for no more than six weeks per year.

IV. Method to Ensure an Equivalent or Greater Level of Safety

According to Daimler, the requirements for a German commercial license ensure that the same level of safety is met or exceeded as if this driver had a CDL issued by one of the States. Daimler explained that Gesa Reimelt is familiar with the operation of CMVs worldwide and would be accompanied at all times by a driver who holds a State-issued CDL and is familiar with the routes to be traveled. Additionally, Daimler provided a statement of Ms. Reimelt's driving history. Daimler also stated that she would ensure safety equivalency by complying with the requirements of the drug and alcohol program, as administered by Daimler, with the exception of the Clearinghouse requirements.

V. Public Comments

On August 19, 2021, FMCSA published notice of the Daimler application and requested public comments (86 FR 46752). The Agency received no comments.

VI. FMCSA Decision

FMCSA has determined that the process for obtaining a CDL in Germany is comparable to the process for obtaining a State-issued CDL and therefore adequately ensures that this driver can safely operate a CMV in the United States.

Under this exemption, Gesa Reimelt is not subject to the drug and alcohol testing requirements, set forth in 49 CFR part 382, which apply only to drivers who are subject to the CDL requirements in 49 CFR part 383, the Canadian National Safety Code, or the Licencia Federal de Conductor (Mexico), and to their employers (49 CFR 382.103(a)). Therefore, to ensure an equivalent level of safety, the terms and conditions of this exemption require Daimler to implement a corporate drug and alcohol testing program substantially equivalent to the testing requirements in part 382. Because Ms. Reimelt is not subject to 49 CFR part 382, an exemption from the Clearinghouse requirements in subpart G is unnecessary.

Based on the information provided by Daimler, as described in section IV, including the driver's experience and safety record, FMCSA concludes that the exemption, subject to the terms and conditions set forth in section VII, would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption, in accordance with 49 U.S.C. 31315(b)(1).¹

VII. Terms and Conditions for the Exemption

This exemption applies only to Daimler driver Gesa Reimelt. This driver is granted an exemption from the CDL requirement in 49 CFR 383.23 to allow her to drive CMVs in the United States without a State-issued CDL. Consequently, Ms. Reimelt is not subject to the requirements of 49 CFR part 382, including the Clearinghouse

¹ FMCSA has granted Daimler drivers similar exemptions: July 22, 2014 (79 FR 42626); March 27, 2015 (80 FR 16511); October 5, 2015 (80 FR 60220); December 7, 2015 (80 FR 76059); December 21, 2015 (80 FR 79410); July 12, 2016 (81 FR 45217); July 25, 2016 (81 FR 48496); August 17, 2017 (82 FR 39151); September 10, 2018 (83 FR 45742); and September 28, 2020 (85 FR 60782).

requirements in subpart G. When operating under this exemption, she is subject to the following terms and conditions:

(1) The driver and Daimler must comply with all other applicable provisions of the Federal Motor Carrier Safety Regulations (49 CFR parts 350-399);

(2) The driver must be in possession of the exemption document and a valid German commercial license;

(3) The driver must be employed by and operate the CMV within the scope of her duties for Daimler;

(4) At all times while operating a CMV under this exemption, the driver must be accompanied by a holder of a State-issued CDL who is familiar with the routes traveled;

(5) Daimler must notify FMCSA in writing within 5 business days of any accident, as defined in 49 CFR 390.5, involving Ms. Reimelt;

(6) Daimler must notify FMCSA in writing if Ms. Reimelt is convicted of an offense listed in § 383.51 or a disqualifying offense under § 391.15 of the Federal Motor Carrier Safety Regulations; and

(7) Daimler must implement a drug and alcohol testing program substantially equivalent to the requirements in 49 CFR part 382 (and 49 CFR part 40 regarding collection procedures, the panel of drugs tested and the thresholds, and the processing of samples, etc.), excluding the Clearinghouse requirements in subpart G.

Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

Notification to FMCSA

Under the exemption, Daimler must notify FMCSA within 5 business days of any positive drug or alcohol tests, or accident (as defined in 49 CFR 390.5), involving Gesa Reimelt while operating a CMV under the terms of this exemption. The notification about accidents must include the following information:

- a. Identifier of the Exemption: “Daimler -Reimelt;”
- b. Name of operating carrier and USDOT number;
- c. Date of the accident;
- d. City or town, and State, in which the accident occurred, or closest to the accident scene;
- e. Driver’s name and license number;
- f. Co-driver’s name (if any) and license number;
- g. Vehicle number and State license number;
- h. Number of individuals suffering physical injury;
- i. Number of fatalities;
- j. The police-reported cause of the accident, if provided by the enforcement agency;
- k. Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations; and
- l. The total on-duty time accumulated during the 7 consecutive days prior to the date of the accident, and the total on-duty time and driving time in the work shift prior to the accident.

VIII. Termination

FMCSA has no reason to believe the motor carrier and driver covered by this exemption will experience any deterioration of their safety record. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including

revocation of the exemption. FMCSA will immediately revoke the exemption for failure to comply with its terms and conditions.

Robin Hutcheson,
Deputy Administrator.

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